

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WAYNE CHREBET,

Plaintiff,
-against-

ORDER
09 CV 4249 (DRH) (AKT)

COUNTY OF NASSAU, PAUL SZYMANSKI,
BOHDAN PILCZAK, SCOTT TUSA, RICHARD
HERMAN, BRIAN FITZGERALD, ARNOLD
ROTHENBERG, RICHARD SOTO, KEVIN
LOWRY, and MICHAEL KRUMMENACKER,

Defendants.

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HURLEY, Senior District Judge:

Plaintiff Wayne Chrebet (“Chrebet” or “plaintiff”) commenced this action in Federal Court against the County of Nassau, Paul Szymanski, Bohdan Pilczak, Scott Tusa, Richard Herman, Brian Fitzgerald, Arnold Rothenberg, Richard Soto, Kevin Lowry, and Michael Krummenacker (collectively “defendants”) via a notice of removal on October 2, 2009. Defendants have filed a motion for summary judgment which is currently before the Court. Plaintiff cross-moved to amend the Complaint to add the corporate entity “Chrebet’s Inc.” as a plaintiff pursuant to Federal Rule of Civil Procedure (“Rule”) 15(c)(1), Rule 17(a)(3), and New York Civil Practice Law and Rules (“CPLR”) § 203(f).

On November 21, 2013, the Court referred the plaintiff’s motion to amend to Magistrate Judge A. Kathleen Tomlinson. On February 28, 2014, Judge Tomlinson issued a Report and Recommendation recommending that plaintiff’s motion to amend the Complaint be denied. On March 18, 2014, plaintiff requested that the Court extend the deadline for filing objections to April 11, 2014, and on March 19, 2014 the Court granted that request. Plaintiff, however, did

not file any objections on or before April 11, 2014. At this time, no party has filed any objections to the Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts Judge Tomlinson's February 28, 2014 Report and Recommendation as set forth therein. Accordingly, plaintiff's motion to amend the Complaint is denied.

On November 6, 2013, defendants filed a letter requesting that "any decision on the part of the Defendants to amend and/or supplement their motion for summary judgment be held in abeyance until the Court decides Plaintiff's motion to amend his complaint."¹ (Docket Entry 71 at 2.) Given the Court's decision on the motion to amend, to the extent defendants request to amend and/or supplement their summary judgment motion, they should notify the Court within 10 days of this Order.

SO ORDERED.

Dated: Central Islip, New York
May 8, 2014

/s/
Denis R. Hurley
United States District Judge

¹ On March 27, 2013, Magistrate Judge Tomlinson granted plaintiff's motion to reopen discovery in order to permit discovery regarding plaintiff's expert on financial issues/damages. As part of that Order, Judge Tomlinson "respectfully recommend[ed] to Judge Hurley that, if Plaintiff proceeds to serve his expert report in accordance with the directives issued . . . , then Defendants be permitted if they elect to do so . . . to submit an appropriate letter request to Judge Hurley (no later than July 2, 2013) seeking permission to amend or supplement their summary judgment motion." (Docket Entry 60 at 17-18.) Judge Tomlinson extended the July 2, 2013 deadline on August 26, 2013 to November 8, 2013.